ENROLLED HOUSE
BILL NO. 1381

By: Roach, Ostrander and Deutschendorf of the House

and

Henry of the Senate

An Act relating to public health and safety; amending Section 4, Chapter 327, O.S.L. 1997, as amended by Section 2, Chapter 164, O.S.L. 1998 (63 O.S. Supp 1998, Section 3131.4), which relates to the Oklahoma Do-Not-Resuscitate Act; requiring maintenance of certain policies and procedures; providing for contents; requiring decisions to be made by patient; providing exceptions; requiring documentation; providing for and requiring certain written instructions; providing for consultations; providing for certain explanations; requiring ongoing education; adding to construction of act; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY Section 4, Chapter 327, O.S.L. 1997, as amended by Section 2, Chapter 164, O.S.L. 1998 (63 O.S. Supp. 1998, Section 3131.4), is amended to read as follows:

Section 3131.4 A. Every person shall be presumed to consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest, unless one or more of the following conditions, of which the health care provider has actual knowledge, apply:

1. The person has notified such person's attending physician that the person does not consent to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest and that notification has been entered in the patient's medical records; ~~or~~

2. The parent or guardian of a minor child, after consultation with the minor child's attending physician, has notified the minor child's attending physician that the parent or guardian does not consent to the administration of cardiopulmonary resuscitation in the event of the minor child's cardiac or respiratory arrest, and that the minor child, if capable of doing so and possessing sufficient understanding and appreciation of the nature and consequences of the treatment decision despite the minor child's chronological age, has not objected to this decision of the parent or guardian, and such notification has been entered in the minor child's medical records; provided, medically indicated treatment may not be withheld from a disabled infant with life-threatening conditions to the extent that such medically indicated treatment is

required by federal law or regulations as a condition for the receipt of federally funded grants to this state for child abuse and neglect prevention and treatment programs~~.~~;

3. An incapacitated person's representative has notified the incapacitated person's attending physician that the representative, based on the known wishes of the incapacitated person, does not consent to the administration of cardiopulmonary resuscitation in the event of the incapacitated person's cardiac or respiratory arrest and that notification has been entered in the patient's medical records; ~~or~~

4. An attending physician of an incapacitated person without a representative knows by clear and convincing evidence that the incapacitated person, when competent, decided on the basis of information sufficient to constitute informed consent that the person would not have consented to the administration of cardiopulmonary resuscitation in the event of cardiac or respiratory arrest. Clear and convincing evidence for this purpose shall include oral, written, or other acts of communication between the patient, when competent, and family members, health care providers, or others close to the patient with knowledge of the patient's personal desires; ~~or~~

5. A do-not-resuscitate consent form in accordance with the provisions of the Oklahoma Do-Not-Resuscitate Act has been executed for that person; or

6. An executed advance directive for health care, or other document recognized by the Oklahoma Rights of the Terminally Ill or Persistently Unconscious Act, directing that life-sustaining treatment not be performed in the event of cardiac or respiratory arrest, is in effect for that person, pursuant to the provisions of paragraph 1 of Section 3101.3 or Section 3101.14 of this title.

B. Health care agencies shall maintain written policies and procedures with respect to do-not-resuscitate orders, do-not-resuscitate consent forms, and certifications of physician. Such written policies and procedures shall ensure the following rights to all persons under the care of health care agencies:

1. All decisions with respect to the administration of cardiopulmonary resuscitation shall be made by the patient unless it is appropriate under this section for the patient's representative, as defined by Section 3131.3 of this title, to do so. The reason the representative, rather than the patient, has made a decision shall be documented in the patient's medical record.

2. a. No decision by the patient's representative shall be made until the representative has been instructed in writing by the patient's attending physician that such representative is deciding what the incapacitated person would have wanted if the incapacitated person could speak for himself or herself. In addition, the attending physician shall encourage consultation among all reasonably available representatives, family members, and persons close to the incapacitated person to the extent feasible in the circumstances of the case.

b. Whenever possible, the attending physician shall explain to the representative and family members the nature and consequences of the decision to be made. Evidence that this explanation was provided shall be documented in the medical records of the incapacitated person.

3. Health care agencies shall provide ongoing education to patients, health care providers, and the community on issues concerning use of the do-not-resuscitate consent form.

C. Nothing in the Oklahoma Do-Not-Resuscitate Act shall require ~~a~~:

1. A health care agency to institute or maintain the ability to provide cardiopulmonary resuscitation or to expand its existing equipment, facilities, or personnel to provide cardiopulmonary resuscitation; provided, if such health care agency does not provide cardiopulmonary resuscitation, this policy shall be communicated in writing to the person or representative prior to the person coming under the care of the health care agency; and

2. A physician, health care provider, or health care agency to begin or continue the administration of cardiopulmonary resuscitation when, in reasonable medical judgment, it would not prevent the imminent death of the patient.

SECTION 2. This act shall become effective November 1, 1999.

Passed the House of Representatives the 24th day of May, 1999.

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Speaker of the House of Representatives

Passed the Senate the 24th day of May, 1999.

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President of the Senate